

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MIKE WELLS, et al.,
Plaintiffs,

v.

UNION PACIFIC RAILROAD
COMPANY,
Defendant.

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CASE NO. 5:19-cv-00108
JURY

ANSWER AND DEMAND FOR JURY TRIAL

COMES NOW, Union Pacific Railroad Company, and answering Plaintiffs' Complaint, admit, denies, and alleges as follows:

PARTIES

I.

Union Pacific admits Paragraph 1 of Plaintiffs' Complaint, upon information and belief.

II.

Union Pacific is without information sufficient to admit or deny Paragraph 2 of Plaintiffs' Complaint.

III.

Union Pacific admits Paragraph 3 of Plaintiffs' Complaint.

JURISDICTION AND VENUE

IV.

Union Pacific admits Paragraph 4 of Plaintiffs' Complaint.

V.

Union Pacific admits Paragraph 5 of Plaintiffs' Complaint.

FACTUAL BACKGROUND

VI.

Union Pacific admits Paragraph 6 of Plaintiffs' Complaint.

VII.

Union Pacific is without information sufficient to admit or deny Paragraph 7 of Plaintiffs' Complaint.

VIII.

Union Pacific denies Paragraph 8 of Plaintiffs' Complaint.

IX.

Union Pacific denies Paragraph 9 of Plaintiffs' Complaint.

X.

Union Pacific denies Paragraph 10 of Plaintiffs' Complaint.

XI.

Union Pacific denies Paragraph 11 of Plaintiffs' Complaint.

XII.

Union Pacific denies Paragraph 12 of Plaintiffs' Complaint.

XIII.

Union Pacific denies Paragraph 13 of Plaintiffs' Complaint.

XIV.

Union Pacific denies Paragraph 14 of Plaintiffs' Complaint.

XV.

Union Pacific denies Paragraph 15 of Plaintiffs' Complaint.

XVI.

Union Pacific denies Paragraph 16 of Plaintiffs' Complaint.

NEGLIGENCE

XVII.

Union Pacific denies Paragraph 17 of Plaintiffs' Complaint, including all specifications of negligence.

DAMAGES

XVIII.

Union Pacific denies Paragraph 18 of Plaintiffs' Complaint, including all subparts.

DEFENSES

XIX.

Further answering Plaintiffs' Complaint, Union Pacific alleges the following defenses:

- a. Plaintiffs' Complaint fails to state a claim for which relief can be granted.
- b. Plaintiffs' Complaint is preempted by the Interstate Commerce Commission Termination Act and the Federal Rail Safety Act.
- c. The damages of which Plaintiffs' complain were not proximately caused by any acts or omissions of Union Pacific.
- d. Plaintiffs have failed to mitigate their damages.
- e. The occurrence and resulting damages for which Plaintiff complains may have been an unavoidable accident.
- f. The occurrence and resulting damages for which Plaintiff complains may have been caused, or contributed to, by the Wells Plaintiffs, their children, or other non-parties over whom Union Pacific has no control.

g. There were independent causes which were substantial factors in bringing about the occurrence and any damages, which destroys any causal connection between any acts of Union Pacific and the occurrence and damages in question.

h. Union Pacific reserves the right to rely on defenses that may be available or apparent during the course of discovery and reserves the right to amend this Answer to assert any such defense.

JURY DEMAND

XX.

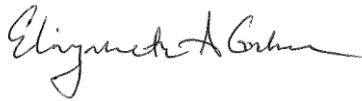
Union Pacific demands a trial by jury on all issues so triable.

PRAYER

XXI.

WHEREFORE, having fully answered Plaintiffs' Complaint, Union Pacific prays that said Complaint be dismissed with prejudice to any future action, awarding Union Pacific costs herein expended, along with such other and further relief as the Court deems just and proper.

Respectfully submitted,
UNION PACIFIC RAILROAD COMPANY,
Defendant,



By: _____

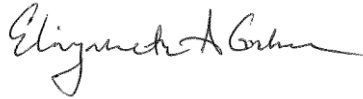
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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2019, I electronically filed the foregoing with the Clerk of the U.S. District Court using the CM/ECF system, which sent notification of such filing to the following:

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